

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18 CVS 014001

COMMON CAUSE, *et al.*
Plaintiffs,

V.

Representative DAVID R. LEWIS,
in his official capacity as Senior
Chairman of the House Select
Committee on Redistricting, et al.,
Defendants.

ORDER

THIS MATTER is presently in the remedy phase of the litigation following the Court's September 3, 2019, entry of Judgment wherein the Court declared the 2017 House and Senate plans unconstitutional and permanently enjoined Legislative Defendants and State Defendants, and their respective agents, officers, and employees, from preparing for or administering the 2020 primary and general elections for House and Senate districts in certain county groupings. As ordered in its entry of Judgment, the General Assembly has until September 18, 2019, to enact Remedial Maps for the House and Senate legislative districts for the 2020 election (hereinafter "Remedial Maps") in conformity with the Court's Judgment.

The Court, in its discretion and in furtherance of its review of any Remedial Maps enacted by the General Assembly, hereby ORDERS the following:

1. Legislative Defendants shall file with the Court by 5:00 p.m. on September 19, 2019, the newly enacted House and Senate Remedial Maps, including:
 - a. block equivalency files in .CSV format for each district and the plan as a whole;
 - b. Environmental Systems Research Institute, Inc. (ESRI) shapefiles for each district and the plans as a whole;
 - c. color maps in .PDF format of the Statewide Remedial Maps and each redrawn county grouping; and,

- d. population totals and deviations for each district based on the 2010 Census P.L. 94-171 dataset.
- 2. Legislative Defendants shall thereafter file with the Court by 5:00 p.m. on September 23, 2019:
 - a. Transcripts of all Senate Committee on Redistricting and Elections hearings, House Committee on Redistricting hearings, and General Assembly floor debates;
 - b. The “stat pack” for the State legislative plans in place prior to 2017, the 2017 enacted State legislative plans, and the newly-enacted Remedial Maps;
 - c. The criteria the Senate Committee on Redistricting and Elections, House Committee on Redistricting, and General Assembly applied in drawing the districts in the Remedial Maps;
 - d. The process followed by the Senate Committee on Redistricting and Elections, House Committee on Redistricting, and General Assembly in drawing and enacting the Remedial Maps, including a description of and explanation for:
 - i. the choice of a base map to begin the redrawing process in the Senate Committee on Redistricting and Elections and the House Committee on Redistricting;
 - ii. any amendments considered, whether adopted or not, and made thereto;
 - iii. the manner in which, within a redrawn county grouping, any traversal of county lines is authorized by *Stephenson I*, *Stephenson II*, *Dickson I*, and *Dickson II*;
 - iv. the efforts undertaken to draw legislative districts in the Remedial Maps that improve the compactness of the districts when compared to districts in place prior to the 2017 enacted maps, as well as the values used as to the criteria of compactness;
 - v. the efforts undertaken to draw legislative districts in the Remedial Maps that split fewer precincts, or voting districts (VTDs), when compared to districts in place prior to the 2017 enacted maps;
 - vi. the manner in which municipal boundaries were considered when drawing the districts in the Remedial Maps;
 - vii. the extent to which incumbency protection was a factor in the redrawing of a district, including the identity of the incumbent(s) for whom the base map was altered to avoid pairing incumbents in the same district, why a specific incumbent was protected, and what efforts were taken to not pair incumbents unduly in the same district;
 - viii. the extent to which partisan considerations and election results data were a factor in the drawing of the Remedial Maps;

- e. The identity of all participants involved in the process of drawing and enacting the Remedial Maps; and,
 - f. Any alternative maps considered by the Senate Committee on Redistricting and Elections, House Committee on Redistricting, or the General Assembly.
3. Any party in this case objecting to the Remedial Maps may inform the Court of its objections by filing with the Court by 5:00 p.m. on September 27, 2019, a response brief explaining the party's objections to any newly-enacted remedial district or county grouping. An objecting party may include with its response brief an alternative remedial map, subject to the same submission requirements described above for submission of the enacted Remedial Maps.
 4. Any party in this case may file with the Court by 5:00 p.m. on October 4, 2019, a reply brief to an objecting party's response brief and alternative remedial map.

In its September 3, 2019, Judgment, the Court also notified the parties of the Court's intent to appoint a referee. The parties have since provided the Court with names and qualifications of suggested referees, and the Court has communicated with and reviewed the qualifications of each of the referees suggested by the parties in this case. After a careful and thorough consideration of each candidate, the Court HEREBY NOTIFIES the parties that the Court will retain Professor Nathaniel Persily as the Referee in this matter to (1) assist the Court in reviewing any Remedial Maps enacted by the General Assembly, and (2) to develop remedial maps for the Court should the General Assembly fail to enact lawful Remedial Maps within the time allowed.

The Court is satisfied that Professor Persily has the requisite qualifications and experience to serve as the Referee in this matter. Professor Persily has beneficial experience, having served as the Special Master in the *Covington* litigation, as well as extensive and impressive practical and academic experience in the field. Professor Persily has also consulted about election matters on a bipartisan basis, has no apparent conflicts of interest, and has time available to complete the work required by his appointment as Referee in this matter.

The Court will enter a subsequent Order appointing Professor Persily as the Referee, providing instructions for his work in this matter, addressing other matters set forth in Rule 53 of the North Carolina Rules of Civil Procedure, and addressing any other outstanding scheduling and housekeeping matters.

So ORDERED, this the 13th day of September, 2019.

/s/ Paul C. Ridgeway

Paul C. Ridgeway, Superior Court Judge

/s/ Joseph N. Crosswhite

Joseph N. Crosswhite, Superior Court Judge

/s/ Alma L. Hinton

Alma L. Hinton, Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the persons indicated below by electronic mail, addressed as follows:

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This the 13th day of September, 2019.

A handwritten signature in blue ink, appearing to read "KZ Myers", is written over a horizontal line.

Kellie Z. Myers

Trial Court Administrator – 10th Judicial District
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